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Oceans and the law of the sea

Australia, Dominican Republic, Ecuador, Jamaica, Mexico, Micronesia (Federated States of), Morocco, New Zealand, Norway, Saint Lucia, Samoa, Tonga and Trinidad and Tobago: draft resolution

Development of an international legally-binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction

The General Assembly,

Reaffirming the commitment made by Heads of State and Government in paragraph 162 of the outcome document of the United Nations Conference on Sustainable Development, held in Rio de Janeiro, Brazil, from 20 to 22 June 2012, entitled "The future we want", endorsed by the General Assembly in its resolution 66/288 of 27 July 2012, to address, on an urgent basis, building on the work of the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction (the Ad Hoc Open-ended Informal Working Group), the issue of the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, including by taking a decision on the development of an international instrument under the United Nations Convention on the Law of the Sea (the Convention),[1] before the end of the sixty-ninth session of the Assembly,

Noting its request to the Ad Hoc Open-ended Informal Working Group to make recommendations on the scope, parameters and feasibility of an international instrument under the Convention contained in paragraph 214 of General Assembly resolution 69/245 of 29 December 2014,

Having considered the recommendations of the Ad Hoc Open-ended Informal Working Group,[2]

[1] United Nations, *Treaty Series*, vol. 1833, No. 31363.
[2] A/69/780, annex, sect. I.

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Welcoming the exchange of views on the scope, parameters and feasibility of an international instrument under the Convention and the progress made within the Ad Hoc Open-ended Informal Working Group, within its mandate, as established by the General Assembly in its resolution 66/231 of 24 December 2011, and in the light of its resolution 67/78 of 11 December 2012, to prepare for the decision on the development of an international instrument under the Convention to be taken at the sixty-ninth session of the General Assembly,

Stressing the need for the comprehensive global regime to better address the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, and having considered the feasibility of developing an international instrument under the Convention,

1. *Decides* to develop an international legally-binding instrument under the Convention on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction and to that end:

(a) To establish, prior to holding an intergovernmental conference, a preparatory committee, open to all States Members of the United Nations, members of the specialized agencies and parties to the Convention, with others invited as observers in accordance with past practice of the United Nations, to make substantive recommendations to the General Assembly on the elements of a draft text of an international legally-binding instrument under the Convention, taking into account the various reports of the Co-Chairs on the work of the Ad Hoc Open-ended Informal Working Group, and that the preparatory committee will start its work in 2016 and, by the end of 2017, report to the Assembly on its progress;

(b) That the preparatory committee shall meet for no less than two sessions of 10 working days duration each in 2016 as well as in 2017 with full conference services, with the recognition that, with respect to documentation, any documents of the preparatory committee other than the agenda, the programme of work and the report of the preparatory committee shall be considered informal working documents;

(c) To request the Secretary-General to convene sessions of the preparatory committee in 2016 from 28 March to 8 April and from 29 August to 12 September;

(d) That the preparatory committee will be chaired by one presiding officer, who will be appointed by the President of the General Assembly, in consultation with Member States, as soon as possible;

(e) That the preparatory committee shall elect a bureau consisting of two members from each regional group, and that these ten members shall assist the Chair on procedural matters in the general conduct of his or her work;

(f) To request the President of the General Assembly to invite the regional groups to nominate candidates to the bureau as soon as possible;

(g) To recognize the desirability that any legally-binding instrument relating to marine biological diversity of areas beyond national jurisdiction under the Convention would secure the widest possible acceptance, and for that reason;

(h) That the preparatory committee shall exhaust every effort to reach agreement on substantive matters by consensus;

(i) To recognize the importance of proceeding efficiently in the preparatory committee on the development of the elements of a draft text of an international legally-binding instrument under the Convention, and to recognize further that any elements where consensus is not attained, even after exhausting every effort, may also be included in the recommendations of the preparatory committee to the General Assembly;

(j) That, except as provided in subparagraph (i) above, the rules relating to the procedure and the established practice of the committees of the General Assembly shall apply to the procedure of the preparatory committee, and that, for the meetings of the preparatory committee, the participation rights of the international organization that is a party to the Convention shall be as in the Meeting of States Parties to the Convention and that this provision shall constitute no precedent for all meetings to which General Assembly resolution 65/276 of 3 May 2011 is applicable;

(k) That, before the end of its seventy-second session, and taking into account the aforementioned report of the preparatory committee, it will decide on the convening and on the starting date of an intergovernmental conference, under the auspices of the United Nations, to consider the recommendations of the preparatory committee on the elements and to elaborate the text of an international legally-binding instrument under the Convention;

2. *Decides* that negotiations shall address the topics identified in the package agreed in 2011, namely the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, in particular, together and as a whole, marine genetic resources, including questions on the sharing of benefits, measures such as area-based management tools, including marine protected areas, environmental impact assessments and capacity-building and the transfer of marine technology;

3. *Recognizes* that the process indicated in paragraph 1 above should not undermine existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies;

4. *Also recognizes* that neither participation in the negotiations nor their outcome may affect the legal status of non-parties to the Convention or any other related agreements with regard to those instruments, or the legal status of parties to the Convention or any other related agreements with regard to those instruments;

5. *Requests* the Secretary-General to establish a special voluntary trust fund for the purpose of assisting developing countries, in particular the least developed countries, land-locked developing countries and small island developing States, in attending the meetings of the preparatory committee and the intergovernmental conference referred to in paragraph 1 (a) above, and invites Member States, international financial institutions, donor agencies, intergovernmental organizations, non-governmental organizations and natural and juridical persons to make financial contributions to the voluntary trust fund;

6. *Also requests* the Secretary-General to provide the preparatory committee with the necessary assistance for the performance of its work, including secretariat services and the provision of essential background information and relevant documents, and to arrange for support to be provided by the Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs.